

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-6216

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ANTWAN BEAFORE,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, District Judge. (CR-98-2, CA-99-111-1)

Submitted: March 23, 2000

Decided: March 31, 2000

Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Antwan Beafore, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Antwan Beafore seeks to appeal the district court's orders denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 1999), and denying his motion for a certificate of appealability. Because Beafore's notice of appeal was not timely filed as to the denial of his § 2255 motion, we dismiss the appeal from that order for lack of jurisdiction. We also dismiss the appeal from the order denying Beafore's motion for a certificate of appealability.

Parties are accorded sixty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(b)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order denying Beafore's § 2255 motion was entered on the docket on August 24, 1999. Beafore's motion for a certificate of appealability, which we construe also as a notice of appeal, was filed on November 10, 1999. Because Beafore failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal from the denial of his § 2255 motion.

In light of this disposition, we dismiss as moot Beafore's appeal from the district court's order denying his motion for a certificate of appealability. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED